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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/816,202	03/31/2004	Ajay Pratap Singh Kushwah	LEGAP024	7502
57255 7590 07/22/2008 VAN PELT, YI & JAMES LLP AND EMC CORPORATION 10050 N. FOOTHILL BLVD. SUITE 200 CUPERTINO, CA 95014				
EXAMINER				
ORTIZ, BELIX M				
ART UNIT		PAPER NUMBER		
2164				
MAIL DATE		DELIVERY MODE		
07/22/2008		PAPER		

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary

Application No.

10/816,202

Applicant(s)

KUSHWAH ET AL.

Examiner

BELIX M. ORTIZ

Art Unit

2164

Period for Reply -- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 19 February 2008.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-8 and 10-21 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-8, 10-21 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO-856)
- 4) ☐ Interview Summary (PTO-413)
- 5) ☐ Notice of Informal Patent Application
- 6) ☐ Other: _____
- Paper No(s)/Mail Date _____

DETAILED ACTION

Remarks

1. In response to communications files on 19-February-2008. Therefore, claims 1-8 and 10-21 are presently pending in the application.

Claim Rejections - 35 USC § 101

2. 35 U.S.C. 101 reads as follows:

Whoever invents or discovers any new and useful process, machine, manufacture, or composition of matter, or any new and useful improvement thereof, may obtain a patent therefor, subject to the conditions and requirements of this title.

3. Claims 1-20 are rejected under 35 U.S.C. 101 because the claimed invention is directed to non-statutory subject matter.

Claims 1 and 20 are rejected under 35 U.S.C. 101 because the claimed invention is directed to non-statutory subject matter. These claims disclose a method and a system but do not describe hardware which executes each of the claimed steps, which is required for a system claim to be statutory. Accordingly, these claims are rejected as non-statutory for failing to disclose such hardware.

Claim Rejections - 35 USC § 102

4. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

5. Claims 1-8 and 10-21 are rejected under 35 U.S.C. 102(b) (Eff. Filing date of application: 10/29/2002) as being anticipated by St. Pierre et al. (U.S. Pub. 2005/0187992) (hereinafter Pierre) (Eff. Filing date of application: 6/30/1978).

As to claims 1 and 21, Pierre teaches a method for identifying a file system element for restoration (see fig. 9 and col. 5, lines 32-45) comprising:

receiving a request to restore a file system element (see col. 13, lines 16-21);

determining an offset indicating where a record associated with the file system element is located within a collection of records, wherein the record includes metadata related to stored data to be used to restore the file system element (see figure 9, characters 92, 94, and 96; col. 12, lines 9-15; col. 18, lines 47-52; and claim 31); and

using the determines offset to retrieve the record from the collection of records (see fig. 9; and col. 20, lines 53-60).

As to claim 2, Pierre teaches the method further comprising determining the type of file system element being restored (see fig. 9, character 98A and 98B).

As to claim 3, Pierre teaches wherein a most significant bit indicates the type of file system element being restored (see fig. 2B and 13 and col. 3, lines 61-65).

As to claim 4, Pierre teaches wherein the most significant bit is stored in a table (see fig. 2B and 13).

As to claims 5 and 15, Pierre teaches wherein one type of file system element is a file (see fig. 9, character 90).

As to claim 6, Pierre teaches wherein a file metadata file includes a collection of records for file system objects that are files (see col. 10, lines 56-58).

As to claims 7 and 16, Pierre teaches wherein one type of file system element is a directory (see col. 1, lines 39-42 and col. 1, lines 56-59).

As to claim 8, Pierre teaches wherein a directory metadata file includes a collection of records for file system objects that are files (see col. 10, lines 56-58 and col. 1, lines 39-42).

As to claim 10, Pierre teaches wherein the metadata includes administrative information (see col. 9, lines 63-65).

As to claim 11, Pierre teaches wherein the metadata includes permissions (see col. 9, lines 63-65 and col. 11, line 40).

As to claim 12, Pierre teaches wherein the metadata includes a value that uniquely identifies the file system element associated with the file system element (see fig. 11 and col. 20, lines 38-44).

As to claim 13, Pierre teaches wherein the record id a first recode and determining an offset includes retrieving a second record associated with the file system element being restored the includes the offset of the first record (see fig. 9).

As to claim 14, Pierre teaches wherein the offset is stored in a table (see figure 13).

As to claim 17, Pierre teaches the method further comprising determining a second offset of a second record associated with the record (see figure 13).

As to claim 18, Pierre teaches wherein the association of the record with the file system element occurs via an inode (see col. 25-29 and col. 1, lines 41-46).

As to claim 19, Pierre teaches wherein the association of the record with the file system element occurs via a value that uniquely identifies the file system element (see figure 11).

As to claim 20, Pierre teaches a system for identifying a file system element for restoration comprising:

a processor configured to:

receiving a request to restore a file system element (see col. 13, lines 16-21);

determining an offset indicating where a record associated with the file system element is located within a collection of records, wherein the record includes metadata related to stored data to be used to restore the file system element (see figure 9, characters 92, 94, and 96; col. 12, lines 9-15; col. 18, lines 47-52; and claim 31); and

use the determined offset to retrieve the record from the collection of records (see fig. 9; and col. 20, lines 53-60); and

a memory coupled to the processor, wherein the memory provides instructions (see col. 3, lines 25-32).

Response to Amendment

6. The Declaration filed on February 19, 2008 under 37 CFR 1.131 is sufficient to overcome the Prahlad et al. (U.S. pub. 2005/0187992) reference.

Conclusion

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Belix M. Ortiz whose telephone number is 571-272-4081. The examiner can normally be reached on Monday-Friday 9am-5pm.

The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/Belix M. Ortiz/
Examiner of Art Unit 2164

July 18, 2008

/Charles Rones/
Supervisory Patent Examiner, Art Unit 2164